

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

HONORABLE THOMAS L. LECLAIRE

CLERK OF THE COURT  
D. Benitez  
Deputy

IN RE THE MATTER OF  
LINDA RECKINGER

LESLIE A SATTERLEE

AND

BRIAN RECKINGER

BRIAN RECKINGER  
4411 E SAVANNAH CIR  
FLAGSTAFF AZ 86004

DOCKET-FAMILY COURT CCC  
FAMILY COURT SERVICES-CCC

**DECREE OF DISSOLUTION OF MARRIAGE**

**DISSOLUTION OF MARRIAGE**

**THE COURT FINDS** that at least one of the parties has been domiciled in the State of Arizona for at least ninety (90) days immediately preceding the filing of the Petition for Dissolution; that the conciliation provisions of A.R.S. §25-381.09 either do not apply or have been met; that the marriage is irretrievably broken and there is no reasonable prospect for reconciliation; and that Wife is not pregnant.

**IT IS ORDERED** dissolving the marriage of the parties and restoring each party to the status of a single person upon the signing and filing of this minute entry as the Decree of Dissolution of Marriage.

To the extent it has the jurisdiction to do so, the Court has considered and made provisions for child custody, parenting time, spousal maintenance, child support, and division of property and debts.

The parties were married October 23, 1999. The Petition was served on Respondent on October 28, 2009. The parties have two children, Alexandra and Elaina.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**CHILD CUSTODY**

The parties agreed that the parties should share joint custody of the minor children. The parties also indicated that significant violence has not occurred during the marriage. As it is the agreement of the parties that the Court award joint custody, the Court finds that there is no evidence contrary to a determination that joint custody is appropriate. The Court further finds that it is in the best interests of the minor children for the parties to have joint custody.

Therefore,

**IT IS ORDERED** as follows:

- A. The parties are awarded joint legal custody of the minor children, Alexandra Reckinger (DOB: 7/5/2000) and Elaina Reckinger (DOB: 11/13/2003).
- B. Each parent is entitled to full and unrestricted access to all medical, dental, prescription and health related records of the child and may secure information from and consult with all health care professionals involved with the minor child. Each party shall keep the other parent informed of the names, addresses and telephone numbers of all health care providers of the child.
- C. Each parent is entitled to full and unrestricted access to all school records, teachers and school officials involved in the child's schooling.
- D. In the event of any emergency or urgent circumstance involving the child, the other parent shall be notified as soon as is reasonably possible.
- E. Each parent shall have the right to attend and participate in school, extra-curricular, conference, organized activity or other similar event in which parents are routinely invited or permitted to attend.
- F. Each parent shall keep the other apprised of his/her home address, home telephone number, employer and address, work telephone number and, if applicable, cellular telephone number and e-mail address.
- G. It is in the furtherance of the child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. They shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.

- H. It is anticipated that parental decisions shall be required for major issues in raising the child and in meeting his on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input.

Mother requests that the Court grant her final decision making authority. The evidence does not support, and the Court does not find a legal basis for, granting Mother greater say over the parental decisions affecting the minor child.

**IT IS ORDERED** that Mother's request is **DENIED**.

**IT IS FURTHER ORDERED** that Mother shall be designated as the primary residential parent.

**THERAPEUTIC INTERVENTION**

Mother requests that therapeutic intervention for Father and Alexandra be ordered by the Court. Father opposes therapeutic intervention, claiming that his relationship with the minor child has been repaired over the last year. The Court finds insufficient evidence to compel the appointment of a therapeutic intervention against the wishes of the party affected by the damaged relationship. If Father believes that intervention therapy is not warranted in his relationship with Alexandra, Father is in the best position to assess his interests and the quality of his relationship with Alexandra from his perspective. This determination does not preclude the parties from determining that one or both of the minor children should receive counseling other than therapeutic intervention. Therefore,

**IT IS ORDERED** that Mother's request for therapeutic intervention is **DENIED**.

**PARENTING TIME**

**GENERAL PARENTING TIME SCHEDULE**

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**IT IS ORDERED** that the children shall enjoy parenting time with Father starting after school on Friday until 6:00 p.m. on Sunday every other weekend. The schedule shall commence with Father having parenting time the weekend of June 24, 2011.

Summer vacation, holidays, and school breaks shall take precedence over the regular parenting time.

**HOLIDAY PARENTING TIME SCHEDULE**

For holidays, the parties shall use the following schedule which shall take priority over the regular or summer access schedule:

- a. Christmas shall be divided into two segments. The first shall begin after school on the day lets out for Christmas and continue until December 25<sup>th</sup> at 10:00 a.m. The second segment shall begin on December 25<sup>th</sup> at 10:00 a.m. and continue until the morning after New Year's Day when school resumes. In each even-numbered year, Father shall be entitled to the first segment and Mother shall be entitled to the second segment. In each odd-numbered year Mother shall have the first segment and Father shall have the second segment.
- b. Thanksgiving shall be alternated each year. It shall begin at 6:00 p.m. on Wednesday night and continue until Sunday at 6:00 p.m. In even-numbered years, Mother shall be entitled Thanksgiving and Father entitled to Thanksgiving in odd-numbered years.
- c. July 4<sup>th</sup> shall begin at 9:00 a.m. and continue until 9:00 a.m. on July 5<sup>th</sup>. The children shall be with Father in odd-numbered years and with Mother in even-numbered years.
- d. Each year, the children shall be with Mother on Mother's Day from 9:00 a.m. until 6:00 p.m. and with Father on Father's Day from 9:00 a.m. until 6:00 p.m.
- e. The child shall be with Mother for Easter Sunday in even-numbered years from 9:00 a.m. until 6:00 p.m. and with Father for this same time period in odd-numbered years.
- f. Any three day holidays shall be alternated with Mother taking Labor Day commencing in 2011 and the parties alternating all three day holidays thereafter, whether national/state holidays or three day weekends resulting otherwise from school closing.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**SUMMER VACATION PARENTING TIME**

**IT IS ORDERED** that each parent shall have up to two weeks of uninterrupted vacation time with the children. For the summer vacation of 2011, the parties are directed to notify each other of their intended summer vacation schedule within fifteen days of the date of this Order. In each year subsequently, the first party shall provide a schedule, which shall take precedence over the other party's summer schedule, if the first party provides notice by May 15<sup>th</sup>. The first party shall be Mother in odd years and Father in even years.

**SCHOOL BREAKS**

The parties shall divide parenting time for school breaks in the Spring and Fall/Winter, if any, and if different than Christmas. For one week breaks, the parties shall exchange the minor children on Wednesday at 1:00 p.m. For two week breaks, the parties shall exchange the minor children on the second Sunday after school releases for the break at 6:00 p.m. In odd years Father shall have the first session and Mother the second session. In even years Mother shall have the first session and Father the second session.

**TELEPHONE ACCESS**

**IT IS ORDERED** that each parent shall have reasonable telephone contact with the minor children during the children's normal waking hours.

**CHILD SUPPORT**

**IT IS ORDERED** that Father shall pay to Mother as and for child support the sum of \$729.00 per month, plus \$5.00 as and for the Support Payment Clearinghouse fee, for a total of \$734.00 payable through the Support Payment Clearinghouse on the 1<sup>st</sup> day of each month, effective as of **July 1, 2011**, by wage assignment per the attached instructions.

The Court determines that no back child support is warranted. The parties have each accessed large sums of community funds to discharge community obligations which, in the totality, includes funds for the support of the children. To require Father to pay back child support in addition to the expenditure of community funds for this purpose would effectively have Father debited twice for the support of the children. The Court determines that this result would be unjust. The Court, therefore, exercises its discretion and Orders that no back child support should be awarded.

**LET THE RECORD REFLECT** an Order of Assignment is initiated electronically by the above-named deputy clerk.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

Until the Wage Assignment becomes effective, it is the responsibility of the party obligated to pay child support to pay the support to Support Payment Clearinghouse, P. O. Box 52107, Phoenix, AZ 85072-2107. The payment should show the case number and/or ATLAS case number, the name of the party paying support, and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift, in which case no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within 10 days of the change (A.R.S. § 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

**IT IS ORDERED** that within five (5) days from the filing date of this minute entry, Father shall submit to this Court a completed Current Employer Information Sheet, a form for which is attached to this minute entry for Father's convenience.

Father is responsible for providing and maintaining health, dental and vision insurance for the minor children. Father shall cooperate with mother to insure that the appropriate insurance forms are current and available for the use and benefit of the minor children.

**NON-REIMBURSED MEDICAL, DAY CARE, AND EXTRA-CURRICULAR  
EXPENSES**

**IT IS ORDERED** that non-reimbursed medical expenses and extra-curricular activity expenses shall be divided equally between the parties. Further, neither party shall incur an extra-curricular activity expense that exceeds one hundred dollars (\$100) without the written consent of the other party.

**IT IS ORDERED** that the parties shall divide equally all day care expenses incurred for the care of the minor children. Before incurring day care expenses, the party having parenting time with the minor children shall first contact the other party to determine if that party is available to care for the minor children.

Neither party may commit the children to an extra-curricular activity that requires the children to participate in the activity during the other parent's parenting time without first obtaining mutual consent in writing.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

The party incurring a reimbursable expense shall provide the other party a copy of the original receipt or invoice of that expense within fourteen days. The party receiving the receipt

and required to reimburse a portion of that expense shall discharge the expense within fourteen days from the receipt of the expense.

Father is Ordered to pay Mother within ten days of the date of this Order one-half of the summer camp expense for the minor children in the amount of \$1116.37 ( $\$2,232.74 \div 2$ ).

**TAX EXEMPTIONS**

The parties shall split the tax exemptions, with Father taking the exemption for Elaina and Mother taking the exemption for Alexandra.

**SPOUSAL MAINTENANCE**

**THE COURT FINDS** that neither party is requesting spousal maintenance, and, therefore, neither party is entitled to spousal maintenance. Any request for spousal maintenance is hereby waived.

**DIVISION OF PERSONAL PROPERTY**

**BANK ACCOUNTS**

**THE COURT FINDS** that the parties have the following bank accounts: Father – Wells Fargo x 9237; AZFCU x 3593. Mother - First Bank, x 3887.

Mother presented evidence that each party should be awarded their own bank accounts. Father did not present any evidence to the contrary. The Court finds that it is equitable to award each party the bank accounts listed above as their separate property.

**IT IS ORDERED** that the parties are awarded the bank accounts in their own names as their sole and separate property. The First Bank accounts opened for the minor children shall be awarded to Mother for the benefit of the minor children.

**IT IS FURTHER ORDERED** that if there are any other community accounts in existence as of the date of service that were not properly disclosed then the account shall be awarded to the other party as their sole and separate property.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**RETIREMENT ACCOUNTS**

**THE COURT FINDS AS FOLLOWS:**

Father currently has a Wells Fargo 401K with a balance of approximately \$15,915 as of the date of service (November 6, 2009).

In 2007 Father withdrew \$15,985.04. In 2008 made two withdrawals, \$15,069.74 and \$32,144.68, all from his WRS retirement, for a grand total of \$63,199.46.

Father provided no proof as to where the money from his WRS retirement account was deposited or what the money was spent on. Father was unable to identify where the money was deposited or what the money was spent on through discovery requests or in trial.

In June 2009 Mother, who was unemployed, withdrew \$47,453.91 from her 401K and rolled it into an IRA with Edward Jones. In September 2009 she then rolled over the amount to First Bank. In October 2009 she withdrew approximately \$25,000 from her IRA, and then withdrew another \$15,000 from the IRA in September 2010. This is because in July 2009 Father abandoned the marital residence and paid little to no support since then. Mother spent the funds on rent, childcare, and attorney's fees.

Mother also cashed stock options with UBS in approximately October 2009; this amounted to just over \$3,000 net (\$4,224 gross). The amount exercised in October 2009 went to payment of necessities of life. Mother testified that she has another 484 shares that can be exercised and estimated the amount to be \$7,600 before taxes.<sup>1</sup>

Pursuant to A.R.S. § 25-318, the Court finds that it is equitable to offset the parties' withdrawals from retirement accounts against each other. Specifically, Father shall be credited with receiving \$63,199.46 as his sole and separate property for the amounts withdrawn in 2007 and 2008 that could not be traced or shown to benefit the community. Mother shall be credited with receiving \$59,277.91 (\$47,453.91 plus \$4,224 in stock options already exercised, and \$7,600 in stock options yet to be exercised).

Additionally, the Court finds that Father's inability to account for the withdrawal of \$63,199.46 in community retirement funds is waste that did not benefit the community. *Gutierrez v. Gutierrez*, 193 Ariz. 343, 972 P.2d 676 (App. 1998). Mother has made a *prima facie* case of waste and Father has failed to present any evidence to rebut the same. Mother is entitled to an equalization in the amount of \$31,599.73.

---

<sup>1</sup> Upon information and belief, the market has since caused the value of the shares to decrease by approximately \$1,000.



SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**IT IS ORDERED** that Father's Wells Fargo 401K be divided equally via QDRO. Each party shall be awarded any other retirements or stocks in their name only, including the amounts already withdrawn as their sole and separate property with no offset.

**VEHICLE EQUALIZATION PAYMENT**

**THE COURT FINDS** that there is a dispute between the values and methodology of valuation for the vehicles. The Court does not find the evidence establishes by a preponderance that either party is entitled to an offset for the valuation of the vehicles.

**THE COURT FURTHER FINDS** that the parties previously had an agreement that Father would pay for repairs to ensure that the GMC truck was in good working condition. Mother testified that the amount to repair the GMC was estimated at approximately \$1,395, and Father testified that he agreed to pay at least \$600 towards the repairs.

**IT IS ORDERED** awarding the Suburban to Father and the GMC to Mother. Father shall sign over title and provide registration for the GMC to Mother and pay \$697.50 towards the repairs.

**DIVISION OF DEBTS**

**2009 TAX LIABILITY**

**THE COURT FINDS** that Father improperly and unilaterally filed joint tax returns for 2009.

**IT IS ORDERED** that the parties shall amend their 2009 tax return as agreed. Father shall be solely and separately responsible for the costs of amending the tax return, including payment of any penalty or interest due and owing as a result of the improper filing and accountant costs. The tax liability itself, if any, or refund, if any, shall be divided equally between the parties.<sup>2</sup>

**THE COURT FINDS** that the parties kept their finances separate. During the divorce, Mother learned of substantial credit card debt accumulated by Father—even though Father failed to disclose requested credit card statements and statements showing the balances of the date of service for his America Express, Chase Rewards and Discover credit cards, and disclosed no statements for the Citi Bank (Sears) credit card. Father's substantial debt did not, in large part, benefit the community.

---

<sup>2</sup> The Court rejects Mother's request that Father pay her 401k early withdrawal tax liability. The calculation of how much support Father should have been paying Mother is speculative at best and does not mean that Mother would have avoided a tax liability anyway.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**IT IS ORDERED** that Mother shall be responsible for the following debts and shall indemnify Father from the same: Any credit cards in Mother's name, any encumbrance related to any assets awarded to Mother, and any medical debts incurred by Mother.

**IT IS ORDERED** that Father shall be responsible for the following debts and shall indemnify and hold Mother harmless from the same: Any encumbrance related to any assets awarded to Father, and any and all credit cards in Father's name, including AmEx x1009, Chase x2073, Citi/Sears x 8435, Discover x3887, the Chase HELOC, Chase Auto Loan, Sallie Mae Student Loan, and IRS 2008 tax debt.

**FORMER NAME**

Upon request of Mother,

**IT IS ORDERED** that Mother's name is restored to her former name of **Linda Boyce**.

**ATTORNEY'S FEES AND COSTS**

Mother requests attorneys fees be awarded stating that "Father has been unreasonable throughout this litigation" and supports this allegation by citing a number of actions taken by Father including failing to provide discovery; providing late discovery; failing to negotiate an agreement, signing the agreement and then withdrawing from the agreement; rejecting a subsequent agreement without any counter-offer; filing 2009 federal taxes without Mother's consent; harassing Mother and causing her to obtain an Order of Protection; and threatening to engage in *ex parte* communications with the Court.

The Court finds that Father's filing of the tax return, withdrawing from the consent Decree *after* signing the Decree, coupled with no counter offer, as well as Father's threats regarding *ex parte* communications with the Court, were vexatious and caused the litigation to be substantially protracted. Further, after examining the proposed settlement and considering the meager evidence provided by Respondent during the trial, the Court determines that there was little to no substantial evidence that supported forcing this matter to trial. Additionally, the Court finds that Father failed to provide discovery as required by the rules.

**IT IS ORDERED** that Mother is entitled to an award of a portion of her attorney's fees related to the OOP, compelling discovery, preparation for and engaging in settlement negotiations, drafting of a Consent Decree, and time related to the *ex parte* communication issue. With respect to other aspects of attorney's fees, the Court finds that those expenses would have been incurred by Mother in the usual course of litigation and is not reimbursable under the statute. Counsel for Mother shall submit an Application for Attorney's Fees in conjunction with a *China*

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

*Doll* Affidavit that will be lodged for objections in accordance with the Arizona Rules of Family Law Procedure. Father shall have fifteen days from the date of the filing of the affidavit challenging the reasonableness of those fees.

**COURT FILINGS**

Respondent submitted a pleading entitled Closing Argument. The content of the document, in substance, was findings of fact and conclusions of law. The Court had granted the parties an opportunity to submit, separately, Findings of Fact and Conclusions of Law. The deadline for that submission had passed before the deadline for the submission of Respondent's closing arguments. Respondent's pleading is, therefore, improper. The pleading is too late to submit as Findings of Facts and Conclusions of Law and is not a Closing Argument. Therefore, the submission filed by Respondent is rejected and deemed stricken.

**OTHER MOTIONS/REQUESTS**

Petitioner asserts in her Separate Pretrial Statement that her request to the Court for acceptance of the purported Consent Decree agreed to by the parties is still pending. The Court held a hearing on this matter. Respondent indicated that he had withdrawn from the agreement. At the time of the notice of withdrawal, the Court had not executed and Ordered the Consent Decree. It is the Court's belief that the signed Consent Decree was not submitted; instead, the Court believes that a Consent Decree with the same terms was lodged by Petitioner for the Court's signature. At the hearing, the Court set this matter for trial. If the Court did not specifically rule on Petitioner's Motion, the Motion was denied by the fact that the Court set the matter for trial and not for a hearing to enforce the purported Consent Decree. For clarification purposes,

**IT IS ORDERED** that Petitioner's Motion to enforce the Consent Decree is **DENIED**.

**IT IS FURTHER ORDERED** that any and all motions and requests that were filed in this case that have not been adjudicated in this Order are deemed **DENIED**.

**IT IS FURTHER ORDERED** signing this Minute Entry as a formal written order of the Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/s/ Honorable Thomas L. LeClaire

---

THOMAS L. LeCLAIRE  
SUPERIOR COURT JUDGE

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2009-006100

06/14/2011

**FILED:** Exhibit Worksheet; Child Support Worksheet

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participation in eFiling through AZTurboCourt.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

Attachments:

BRIAN RECKINGER: Current Employer Information, Non IV-D Payment Instructions